

*State of New Jersey*



# DEPARTMENT OF THE TREASURY

Division of Contract Compliance  
&  
Equal Opportunity  
In  
Public Contracts

## General Requirements

- Procurement Contractors
- Service Contractors
- Professional Contractors
- Construction Contractors

## For Awarded Public Contracts

Pursuant to N.J.S.A. 10:5-31 et. seq., N.J.A.C. 17:27

Trenton Main Office: (609)292-5473 Fax: (609)292-1102

Website: [WWW.STATE.NJ.US/TREASURY/CONTRACT\\_COMPLIANCE](http://WWW.STATE.NJ.US/TREASURY/CONTRACT_COMPLIANCE)

Revised 02/05

# Overview

- ❖ General Requirements for Procurement, Professional and Service Contractors
- ❖ Affirmative Action Evidence Goods, Services and Professional Services Contracts
- ❖ Sample Federal Letter of Approval From the US Department of Labor
- ❖ Sample Certificate of Employee Information Report
- ❖ Sample Employee Information Report Form AA302 for Goods, Services, and Professional Services Contracts
- ❖ Affirmative Action Mandatory Language Exhibit "A" (Goods, Services, and Professional Services Contracts)
- ❖ Establishment of Goals for Procurement and Service Vendors
- ❖ Standards for Good Faith Compliance (Procurement and Service Vendors)

- 
- A decorative floral graphic with a central stem and leaves, featuring heart-shaped motifs, positioned to the right of the list items.
- ❖ Procedures for the Issuance and Renewal of Certificate of Employee Information Report
  - ❖ General Requirements for the Awarding of Construction Contracts
  - ❖ Affirmative Action Evidence Construction Contracts
  - ❖ Sample Affirmative Action Initial Project Workforce Report Form AA201 for Construction Contracts
  - ❖ Affirmative Action Mandatory Language Exhibit “B” (Construction Contracts)
  - ❖ Sample Affirmative Action Monthly Project Workforce Report Form AA202 for Construction Contracts
  - ❖ Establishment of Goals for Construction Contractors
  - ❖ Standards for Good Faith Compliance (Construction Contractors)
  - ❖ Affirmative Action Procedure Flow Chart
  - ❖ Web Access Information

# General Requirements For Procurement, Professional and Service Contractors Awarded Contracts Under NJSA 10:5-31 Et. Seq. (NJAC 17:27)

All successful procurement and service vendors must submit after notification of award of a goods and services contract, but prior to signing one of the following forms of affirmative action evidence to the public agency:

1. An existing federally approved or sanctioned Affirmative Action Program.  
or
2. A Certificate of Employee Information Report.  
or
3. If you cannot present items 1 or 2 then you are required to submit a Completed Employee Information Report (Form AA302). This form will be made available to you by the Public Agency awarding the contract.

A contractor's bid must be rejected as non-responsive if the successful vendor fails to submit either 1, 2, or 3 within the time specified.

## Mandatory Contract Language

A procurement and service vendor must sign a contract containing the Mandatory Language of Exhibit "A". If a procurement or service vendor refuses to sign a contract containing the Mandatory Affirmative Action Contract Language at the time the contract is submitted for signing by the Public Agency, the Public Agency shall reject the vendor's bid as non-responsive. When such a rejection occurs the same affirmative action requirements shall apply to any other successful vendors selected by the Public Agency in accordance with contracting laws and procedures.

## Establishment of Goals for Procurement and Service Vendors

The Division shall establish the minority and women employment goals for procurement, professional and service vendor or subcontractor. The establishment of any procurement and service employment goal will be determined by utilizing data provided by the New Jersey Department of Labor and Industry, Division of Research and Planning, identifying the actual availability status of qualified minorities and women within the vendor's particular labor force and market by county/counties in which the vendor's availability status of qualified minorities and women within the vendor's particular labor force and market by county/counties in which the vendor's primary facility or facilities are located.

It should be noted that these are goals and not quotas which must be strictly satisfied. If the vendor and/or the vendor's subcontractor(s) has attempted in good faith to satisfy the applicable goals, the vendor will not be penalized if the vendor/subcontractor(s) workforce falls short of the goals.

## Standards for Good Faith Compliance Procurement and Service Vendors

Through on-site visits, periodic reviews and information submitted by the vendor or subcontractor(s), the Division will evaluate the performance of the vendor to determine whether the vendor is acting in good faith to comply with the Affirmative Action regulations. The Division shall consider the following factors in determining whether a vendor has acted in good faith:

1. The general availability of minorities and women having requisite skills in the immediate labor area.
2. The percentages of minority and women workers in the total workforce in the immediate labor area.
3. Minority and women employees within the vendor's or subcontractor's organization.


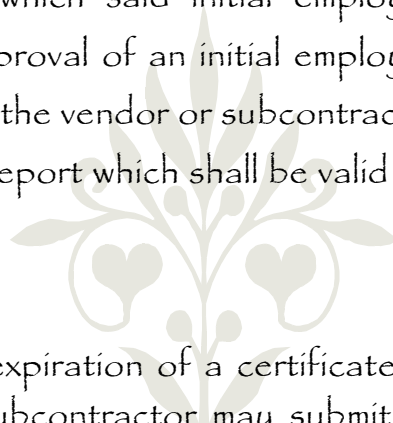
## Establishment of Goals for Procurement and Service Vendors *(continued)*

4. The anticipated expansion, contraction and turnover of the vendor's or subcontractor's workforce.
5. The existence of training institutions capable of training minorities and women in the requisite skills.
6. The degree of training which the vendor or subcontractor is reasonably able to undertake as a means of making all job classifications available to minorities and women.
7. The availability and use of recruitment resources to attract minorities and women.
8. The vendors documentation of attempts to attain the goals.

\* All goals are available upon request.

## Procedures for the Issuance and Renewal of a Certificate of Employee Information Report Procurement and Service Vendors

- ❖ The successful vendor or subcontractor that has submitted an initial employee information report (Form AA302) to a Public Agency shall immediately provide the top two copies (marked Division DP) of said report to the Division as stated on the back of the report form.

- 
- 
- ❖ The Division shall approve or reject an initial employee information report within 40 business days of its submission, provided, however, that such a rejection, if it is independent of a noncompliance determination, shall in no way affect the validity of a contract for which said initial employee information report was presented. Upon approval of an initial employee information report, the Division shall issue to the vendor or subcontractor an initial certificate of employee information report which shall be valid for the time period indicated on the certificate.
  - ❖ As early as 90 business days prior to the expiration of a certificate of employee information report, a vendor or subcontractor may submit an application package for the renewal of their certificate of employee information report to the state Division. The renewal package, consisting of the AA302 renewal report, accompanied by AA302(s) marked New Jersey facility for each company location in New Jersey and a vendor employee activity summary report, is to be submitted on forms specified by the Division. All renewal forms shall be made available to the vendor or subcontractor by the Division.
  - ❖ The state Division shall approve or reject an application package for renewal of a certificate of employee information report within 60 business days of its submission, and the failure of the Division to act within 60 business days shall constitute approval of the renewal application. If a renewal application is rejected, the Division shall state in writing reasons for the rejection. Upon approval of an renewal employee information report, the Division shall issue to the vendor or subcontractor a certificate of employee information report which shall be valid for the time period indicated on the certificate.



U.S. Department of Labor

Employment Standards Administration  
Office of Federal Contract  
Compliance Program



Newark Area Office  
134 Evergreen Place, Fourth Floor  
East Orange, NJ 07018

February 27, 19\_\_

Reply to the attention of:

President

Dear

Our recent compliance review of your establishment's equal employment opportunity policies and practices was completed on February 27, 19\_\_.

We found no apparent deficiencies or violations of Executive Order 11246, as amended. Section 503 of the Rehabilitation Act of 1973 or of 38 USC 2012 (the Vietnam Era Veterans' Readjustment Assistance Act). Accordingly, your establishment is deemed to be in compliance with these laws based on the material reviewed.

The Office of Federal Contract Compliance Progress sincerely appreciated the cooperation and courtesies extended by you and your staff during the conduct of the compliance review.

Sincerely,

Area Office Director



**VOID**

Certification \_\_\_\_\_

**CERTIFICATE OF EMPLOYEE INFORMATION REPORT**

This is to certify that the contractor has submitted an Employee Information Report pursuant to N.J.A.C. 17:27-1.1 et seq. and the State Treasurer has approved said report. This approval will remain in effect for the period of \_\_\_\_\_.



State Treasurer

**VOID**

**STATE OF NEW JERSEY**  
**Division of Contract Compliance & Equal Employment Opportunity**  
**EMPLOYEE INFORMATION REPORT**

**IMPORTANT-** READ INSTRUCTIONS ON BACK OF FORM CAREFULLY BEFORE COMPLETING FORM. TYPE OR PRINT IN SHARP BALLPOINT PEN. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM MAY DELAY ISSUANCE OF YOUR CERTIFICATE. DO NOT SUBMIT EEO-1 REPORT FOR SECTION B, ITEM 11.

**SECTION A – COMPANY IDENTIFICATION**

1. FID. NO. OR SOCIAL SECURITY	2. TYPE OF BUSINESS <input type="checkbox"/> 1. MFG <input type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE <input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER	3. TOTAL NO. EMPLOYEES IN THE ENTIRE COMPANY
4. COMPANY NAME		
5. STREET	CITY	COUNTY    STATE    ZIP CODE
6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE)		CITY    STATE    ZIP CODE
7. CHECK ONE: IS THE COMPANY: <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER		
8. IF MULTI-ESTABLISHMENT EMPLOYER, STATE THE NUMBER OF ESTABLISHMENTS IN NJ		
9. TOTAL NUMBER OF EMPLOYEES AT ESTABLISHMENT WHICH HAS BEEN AWARDED THE CONTRACT		
10. PUBLIC AGENCY AWARDED CONTRACT	CITY	COUNTY    STATE    ZIP CODE
Official Use Only	DATE RECEIVED	INAUG. DATE    ASSIGNED CERTIFICATION NUMBER

**SECTION B – EMPLOYMENT DATA**

11. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in minority/non-minority categories, in columns 1, 2, & 3. *DO NOT SUBMIT AN EEO-1 REPORT.*

JOB CATEGORIES	ALL EMPLOYEES			PERMANENT MINORITY/NON-MINORITY EMPLOYEE BREAKDOWN										
	COL. 1 TOTAL (Cols. 2 & 3)	COL. 2 MALE	COL. 3 FEMALE	***** MALE *****					***** FEMALE *****					
				BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	BLACK	HISPANIC	AMER. INDIAN	ASIAN	NON MIN.	
Officials/ Managers														
Professionals														
Technicians														
Sales Workers														
Office & Clerical														
Craftworkers (Skilled)														
Operatives (Semi-skilled)														
Laborers (Unskilled)														
Service Workers														
TOTAL														
Total employment From previous Report (if any)														
	The data below shall NOT be included in the figures for the appropriate categories above.													
Temporary & Part-Time Employees														
12. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED? <input type="checkbox"/> 1. Visual Survey <input type="checkbox"/> 2. Employment Record <input type="checkbox"/> 3. Other (Specify)									14. IS THIS THE FIRST Employee Information Report Submitted? 1. YES <input type="checkbox"/> 2. NO <input type="checkbox"/>		15. IF NO, DATE LAST REPORT SUBMITTED MO.    DAY    YEAR			
13. DATES OF PAYROLL PERIOD USED From:    To:														

**SECTION C – SIGNATURE AND IDENTIFICATION**

16. NAME OF PERSON COMPLETING FORM (Print or Type)	SIGNATURE	TITLE	DATE MO    DAY    YEAR
17. ADDRESS NO. & STREET    CITY    COUNTY    STATE    ZIP CODE    PHONE (AREA CODE, NO., EXTENSION)			

**White Div. of Contract Compliance; Canary Div. of Contract Compliance DP;  
Pink Public Agency; Gold Vendor**

# Exhibit A

*(Revised 2005)*

N.J.S.A. 10:5-36 et seq, N.J.A.C. 17:27

## Mandatory Affirmative Action Language Goods, Professional Service and General Service Contracts

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

# Exhibit A

*(continued)*

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-36 et. seq., as amended and supplemented from time to time and the Americans with Disabilities Act. The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27 5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27 5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices. The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

# Exhibit A

*(continued)*

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Div. of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Div. of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

# General Requirements For Construction Contractors Awarded Contracts Under NJSA 10:5-31 Et. Seq. (NJAC 17:27)

## Affirmative Action Evidence

All successful construction contractors must after notification of award, but prior to signing a construction contract, submit their Initial Project Workforce Report to the Public Agency and the Division (copy marked Public Agency and copies marked Division). The Initial Project Workforce Report will be made available to the construction contractor by the Public Agency awarding the contract.

A contractor's bid must be rejected as non-responsive if the successful contractor fails to submit the Initial Project Workforce Report within the time specified.

## Mandatory Contract Language

A Construction contractor must sign a contract containing the Mandatory Language of Exhibit "B". If a construction contractor refuses to sign a contract containing the Mandatory Affirmative Action Contract Language at the time the contract is submitted for signing by the Public Agency shall reject the contractor's bid as non-responsive. When such a rejection occurs the same Affirmative Action requirements shall apply to any other successful contractor selected by the Public Agency in accordance with contracting laws and procedures.

## Establishment of Goals for Construction Contractors

The Division shall establish the minority and women employment goals for construction contractors. The establishment of any construction employment goal will be determined by utilizing data provided by the New Jersey Department of Labor and Industry, Division of Research and Planning, identifying the actual availability status of qualified minorities and women.

It should be noted that these are goals and not quotas which must be strictly satisfied. If the contractor has attempted in good faith to satisfy the applicable goals, the contractor will not be penalized if the contractor's workforce falls short of the goals.

## Standards for Good Faith Compliance Construction Contractors

Through on site visits, periodic reviews and information submitted by the contractor, the Division will evaluate the performance of the contractor to determine whether the contractor is acting in good faith to comply with the Affirmative Action regulations.



# Standards for Good Faith Compliance

## Construction Contractors

*(continued)*

The Division shall consider the following factors in determining whether a contractor has acted in good faith:

### 1. Notification to Unions

Contractors and subcontractors will notify the union with whom it has a referral agreement, within three business days of the contract award, of the obligations of contractors and subcontractors under the Affirmative Action regulations and seek the cooperation of such unions in meeting the minority and women goal requirements.

### 2. Employment of Minority and Women Workers

Contractors and subcontractors shall employ minority and women workers, in each craft, consistent with the applicable minority goals, by using the procedures contained in Exhibit "B". Exhibit "B" contains the mandatory language which will be included in all construction contracts.

A. Request the referral of minority and women journey workers and apprentices consistent with the required employment goals from the union with which the contractor or subcontractor has a collective bargaining agreement or referral arrangement.

B. If the hiring or scheduling of a workforce consistent with the employment goal has not or can not be achieved for each construction trade by adhering to the procedures of the preceding section or if the contractor or subcontractor does not have a referral agreement or arrangement with the union for a construction trade, the contractor or subcontractor is to take the following actions consistent with the applicable county employment goals:

1. To notify the Public Agency Compliance Officer, Div. of Contract Compliance & EEO and at least one approved minority/woman referral organization of its employment needs and request referral of minority and women workers.
2. To notify minority and women workers who have been listed with it as awaiting available vacancies.
3. Prior to commencement of work, to request the local construction trade union. If the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, to refer minority and women workers to fill job openings.
4. To leave standing local requests for additional referral of minority and women workers with the local construction trade union, if the contractor or subcontractor has a referral agreement or arrangement with a union for the

construction trade. The state training and employment service and another approved referral sources in the area until such time as the workforce is consistent with the employment goal.

5. If it is necessary to lay off some of the workers in a given trade on the construction site, to assure consistent with the applicable state and federal statutes and court decisions, that sufficient minority employees remain on the site consistent with the employment goal; and to employ any minority and women workers so laid off by the contractor on any other construction site in the area on which its workforce composition is not consistent with the applicable employment goal.

6. To adhere to the procedure prescribed the Mandatory Contract Language contained in Exhibit "B" when minority workers apply or are referred to the contractor or subcontractor.

C. Nothing contained in the preceding section shall preclude the contractor or subcontractor from complying with the hiring hall or apprenticeship provisions in any applicable collective bargaining agreement or hiring hall arrangement, and where required by custom

or agreement, the contractor or subcontractor is to send journey workers and trainees to the union for referral, or to the apprenticeship program for admission in accordance with the terms of such an agreement. However, where the practices of a union or apprenticeship program will result in the exclusion of minority and women persons or the failure to refer minority and women persons consistent with the county employment goal, the contractor or subcontractor is to consider for employment persons referred pursuant to the Mandatory Contract Language contained in Exhibit "B", without regard to such agreement. Also, the contractor or subcontractor, in implementing these procedures, where practicable, is to employ minority and women workers residing within the geographical jurisdiction of the union.

D. No contractor or subcontractor shall be required to employ a workforce percentage of apprentices, advanced trainees, and trainees which significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or the ratio established by practice in the area of the construction trade.

E. The contractor or subcontractor is to keep a complete and

accurate record of all requests made for the referral of workers in any trade.

### 3. Construction Contract Reports

Construction contractors shall be responsible for the completion of monthly employment utilization reports for each project on forms made available by the Division. The report shall include an analysis of the contractor and its subcontractor's workforce. The monthly workforce utilization report, form AA202 shall be submitted to the Division and Public Agency Compliance Officer no later than the seventh business day of each month for the duration of each project.

				<b>Official Use Only</b>	
<b>STATE OF NEW JERSEY</b>				<i>Assignment</i>	
<i>DIVISION OF CONTRACT COMPLIANCE</i>					
<i>EQUAL EMPLOYMENT OPPORTUNITY IN PUBLIC CONTRACTS</i>				<i>Code</i>	
<i>FORM AA-261</i>					
<i>Revised 10/03</i>		<b>INITIAL PROJECT WORKFORCE REPORT CONSTRUCTION</b>			
READ INSTRUCTIONS ON THE BACK CAREFULLY BEFORE THE COMPLETION AND DISTRIBUTION OF THIS FORM. PLEASE TYPE OR PRINT IN BLACK OR BLUE INK.					
<b>1. FID NUMBER</b>		<b>2. CONTRACTOR ID NUMBER</b>		<b>5. NAME AND ADDRESS OF PUBLIC AGENCY AWARING CONTRACT</b>	
<b>3. NAME AND ADDRESS OF PRIME CONTRACTOR</b>					
(Name)				CONTRACT NUMBER    DATE OF AWARD    DOLLAR AMOUNT OF AWARD	
(Street Address)				<b>6. NAME AND ADDRESS OF PROJECT</b>	
				<b>7. PROJECT NUMBER</b>	
(City)		(State)		(Zip Code)	
				COUNTY	
<b>4. IS THIS COMPANY MINORITY OWNED [ ] OR WOMAN OWNED [ ]</b>				<b>8. IS THIS PROJECT COVERED BY A PROJECT LABOR AGREEMENT (PLA)?    <input type="checkbox"/> YES    <input type="checkbox"/> NO</b>	
<b>9. TRADE OR CRAFT</b>		<b>PROJECTED TOTAL EMPLOYEES</b>		<b>PROJECTED MINORITY EMPLOYEES</b>	
		MALE    FEMALE		MALE    FEMALE	
		J    AP    J    AP		J    AP    J    AP	
				PROJECTED PHASE - IN DATE	
				PROJECTED COMPLETION DATE	
1. ASBESTOS WORKER					
2. BRICKLAYER OR MASON					
3. CARPENTER					
4. ELECTRICIAN					
5. GLAZIER					
6. HVAC MECHANIC					
7. IRONWORKER					
8. OPERATING ENGINEER					
9. PAINTER					
10. PLUMBER					
11. ROOFER					
12. SHEET METAL WORKER					
13. SPRINKLER FITTER					
14. STEAMFITTER					
15. SURVEYOR					
16. TILER					
17. TRUCK DRIVER					
18. LABORER					
19. OTHER					
20. OTHER					
I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.					
				(Signature)	
<b>10. (Please Print Your Name)</b>				<b>(Title)</b>	
(Area Code)		(Telephone Number (Ext.))		(Date)	

# Exhibit B

*(Revised 2005)*

## N.J.S.A. 10:5-36 et seq, N.J.A.C. 17:27 **Mandatory Affirmative Action Language** **Construction Contracts**

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Except with respect to affectional or sexual orientation, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex. Such action shall include, but not be limited to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause;

The contractor or subcontractor, where applicable, will in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to



employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer, pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

When hiring or scheduling workers in each construction trade, the contractor or subcontractor agrees to make good faith efforts to employ minority and women workers in each construction trade consistent with the applicable employment goal prescribed by N.J.A.C. 17:27 7.3; provided, however, that the Division may, in its discretion, exempt a contractor or subcontractor from compliance with the good faith procedures prescribed by the following provisions, A, B and C, as long as the Division is satisfied that the contractor or subcontractor is employing workers provided by a union which provides evidence, in accordance with standards prescribed by the Division, that its percentage of active "card carrying" members who are minority and women workers is equal to or greater than the applicable employment goal established in accordance with N.J.A.C. 17:27 7.3, promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq. The contractor or subcontractor agrees that a good faith effort shall include compliance with the following procedures:

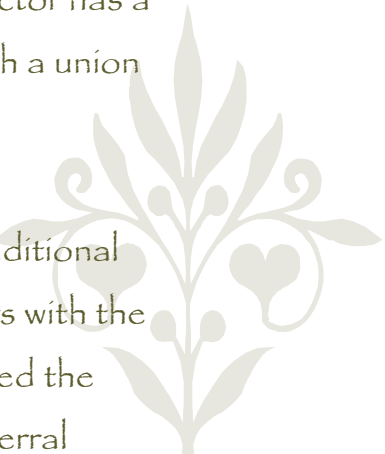

(A) If the contractor or subcontractor has a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor shall, within three business days of the contract award, seek assurances from the union that it will cooperate with the contractor or subcontractor as it fulfills its affirmative action obligations under this contract and in accordance with the rules promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et. seq., as supplemented and amended from time to time and the Americans with Disabilities Act. If the contractor or subcontractor is unable to obtain said assurances from the construction trade union at least five business days prior to the commencement of construction work, the contractor or subcontractor agrees to attempt to hire or schedule minority and women workers directly, consistent with the applicable employment goal.

If the contractor's or subcontractor's prior experience with a construction trade union, regardless of whether the union has provided said assurances, indicates a significant possibility that the trade union will not refer sufficient minority and women workers consistent with the applicable employment goal, the contractor or subcontractor agrees to be prepared to hire or schedule minority and women workers directly, consistent with the applicable employment goal, by complying with the hiring or scheduling procedures prescribed under (B) below; and the contractor or subcontractor further agrees to take said action immediately if it determines or is so notified by the Division that the union is not referring minority and women workers consistent with the applicable employment goal.

(B) If the hiring or scheduling of a workforce consistent with the employment goal has not or cannot be achieved for each construction trade by adhering to the procedures of (a) above, or if the contractor does not have a referral agreement or arrangement with a union for a construction trade, the contractor or subcontractor agrees to take the following actions consistent with the applicable county employment goals:

(1) To notify the Public Agency Compliance Officer, the Division, and minority and women referral organizations listed by the Division pursuant to N.J.A.C. 17:27-5.3, of its workforce needs, and request referral of minority and women workers;

(2) To notify any minority and women workers who have been listed with it as awaiting available vacancies;



(3) Prior to commencement of work, to request that the local construction trade union refer minority and women workers to fill job openings, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade;

(4) To leave standing requests for additional referral to minority and women workers with the local construction trade union, provided the contractor or subcontractor has a referral agreement or arrangement with a union for the construction trade, the State Training and Employment Service and other approved referral sources in the area until such time as the workforce is consistent with the employment goal;

(5) If it is necessary to lay off some of the workers in a given trade on the construction site, to assure, consistent with the applicable State and Federal statutes and court decisions, that sufficient minority and women employees remain on the site consistent with the employment goal; and to employ any minority and women workers laid off by the contractor on any other construction site on which its workforce composition is not consistent with an employment goal

established pursuant to rules implementing  
N.J.S.A. 10:5-31 et. seq.;

(6) To adhere to the following procedure when  
minority and women workers apply or are referred  
to the contractor or subcontractor:

(i) If said individuals have never previously received any document or certification signifying a level of qualification lower than that required in order to perform the work of the construction trade, the contractor or subcontractor shall determine the qualifications of such individuals and if the contractor's or subcontractor's workforce in each construction trade is not consistent with the applicable employment goal, it shall hire or schedule those individuals who satisfy appropriate qualification standards. However, a contractor or subcontractor shall determine that the individual at least possesses the requisite skills, and experience recognized by a union, apprentice program or a referral agency, provided the referral agency is acceptable to the Division. If necessary, the contractor or subcontractor shall hire or schedule minority and women workers who qualify as trainees pursuant to these rules. All of the requirements, however, are limited by the provisions of (C) below.

(ii) If the contractor's or subcontractor's workforce is consistent with the applicable employment goal, the name of any interested women or minority individual shall be maintained on a waiting list for the first consideration, in the event the contractor's or subcontractor's workforce is no longer consistent with the applicable employment goal.

(iii) If, for any reason, said contractor or subcontractor determines that a minority individual or a women is not qualified or if the individual qualifies as an advanced trainee or apprentice, the contractor or subcontractor shall inform the individual in writing of the reasons for the

determination, maintain a copy of the determination in its files, and send a copy to the public agency compliance officer and to the Division.

(7) To keep a complete and accurate record of all requests made for the referral of workers in any trade covered by the contract, on forms made available by the Division and submitted promptly to the Division upon request.

(C) The contractor or subcontractor agrees that nothing contained in (B) above shall preclude the contractor or subcontractor from complying with the union hiring hall or apprenticeship policies in any applicable collective bargaining agreement or union hiring hall arrangement, and, where required by custom or agreement, it shall send journeymen and trainees to the union for referral, or to the apprenticeship program for admission, pursuant to such agreement or arrangement. However, where the practices of a union or apprenticeship program will result in the exclusion of minorities and women or the failure to refer minorities and women consistent with the county employment goal, the contractor or subcontractor shall consider for employment persons referred pursuant to (B) above without regard to such agreement or arrangement; provided further, however, that the contractor or subcontractor shall not be required to employ women and minority advanced trainees and trainees in numbers which result in the employment of advanced trainees and trainees as a percentage of the total workforce for the construction trade, which percentage significantly exceeds the apprentice to journey worker ratio specified in the applicable collective bargaining agreement, or in the absence of a collective bargaining agreement, exceeds the ratio established by practice in the area for said construction trade. Also, the contractor or subcontractor agrees that, in implementing the procedures of (B) above, it shall, where applicable, employ minority and women workers residing within the geographical jurisdiction of the union.

(D) After notification of award, but prior to signing a construction contract, the contractor shall submit to the public agency compliance officer and the Division an Initial Project Workforce (Form AA201) provided to the public agency by the Division for distribution to and completion by the contractor, in accordance with N.J.A.C. 17:27-7. The contractor also agrees to submit a copy of the Monthly Project Workforce Report once a month thereafter for the duration of this contract to the Division and to the public agency compliance officer. The contractor agrees to cooperate with the public agency in the payment of budget funds, as is necessary, for on the job and/or off-the-job programs for outreach and training of minority and women.

(E) The contractor and its subcontractors shall furnish such reports or other documents to the Division of Contract Compliance & EEO as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Contract Compliance & EEO for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code NJAC 17:27.





# Affirmative Action Procedure Flow Chart

## AFFIRMATIVE ACTION PROCEDURES IN AWARDING PUBLIC CONTRACTS

<p>❖ Include Mandatory Language in advertisement for bids.</p>	<p>Bidders are required to comply with the requirements of N.J.S.A. 10:5-36 et seq</p> <div> <div> <div>Goods, Services, and Professional Services Contracts</div> <div>Mandatory Language of Exhibit 'A'</div> </div> <div> <div>Construction Contracts</div> <div>Mandatory Language of Exhibit 'B'</div> </div> </div>
<p>❖ Include appropriate Mandatory Language in either the contract or the bid specifications.</p>	<p>All successful vendors must submit one of the following forms of evidence:</p> <div> <div>1. Letter of Federal Approval</div> <div>or</div> <div>2. Certificate of Employee Information Report</div> <div>or</div> <div>3. Complete form AA302</div> </div>
<p>❖ Required Affirmative Action evidence from contractor or vendor.</p>	<p><del>Affirmative Action Evidence must</del> be submitted after notification of award, but prior to signing of a goods and services contract.</p> <p>Affirmative Action Evidence must be submitted after notification of award, but prior to signing of a construction contract.</p>

# Attention All Goods and Services Vendors

For your convenience, all goods and services vendors now have 2 options in filing the Division of Contract Compliance AA302, Employee Information Report Renewal and Vendor Activity Summary Report forms. As always, you may complete the forms manually and mail the forms to this Office or you may input your employment data directly onto the AA302 and Vendor Activity Summary Report located on our website. To access the Division's website, simply follow these steps:

1. Type [www.state.nj.us/treasury/contract\\_compliance/](http://www.state.nj.us/treasury/contract_compliance/)
2. Select the "Internet Submission" button.
3. Select "About Internet Submission" to review the Agreement.
4. Review the Agreement and select "Accept", if you wish to continue.
5. Complete the "Registration for Electronic Form Submission" section. Please note that the password is created by you.
6. Within 3-5 business days, the Division will confirm your password by e-mail. At that time, you may access the electronic forms to input your employment data.

When you complete each screen, you must print each screen page in order to copy your submission. The Division will not be able to provide you with the copy after the information has been sent.

# Attention All Construction Contractors

For your convenience, all contractors now have 2 options in filing the Division of Contract Compliance AA202, Monthly Project Workforce Report form. As always, you may complete the forms manually and mail the form to this Office or you may input your employment data directly onto the AA202 form located on our website, with a copy to the public agency. To access the Division's website, simply follow these steps:

1. Type [www.state.nj.us/treasury/contract\\_compliance/](http://www.state.nj.us/treasury/contract_compliance/)
2. Select the "Internet Submission" button.
3. Select "About Internet Submission" to review the Agreement.
4. Review the Agreement and select "Accept", if you wish to continue.
5. Complete the "Registration for Electronic Form Submission" section. Please note that the password is created by you.
6. Within 3-5 business days, the Division will confirm your password by e-mail. At that time, you may access the electronic forms to input your employment data.

When you complete each screen, you must print each screen page in order to copy your submission. The Division will not be able to provide you with the copy after the information has been sent. In addition, you will still be required to send a hard copy to the public agency awarding the contract.